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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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CUMMINGS AND LOCKWOOD
GRANITE SQUARE
700 STATE STREET
P O BOX 1960
NEW HAVEN, CT 06509-1960

EXAMINER

NAFF, DAVID M

ART UNIT

PAPER NUMBER

1651

DATE MAILED: 08/11/2003

18

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/899607

Applicant(s)

Thomson et al

Examiner

Haff

Group Art Unit

1457

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 2/27/03.
- ☒ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-14 + 32-65 is/are pending in the application.
- ☐ Of the above claim(s) 1-14 + 32-45 is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 46-65 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
 - ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
 - ☐ received in Application No. (Series Code/Serial Number) _____.
 - ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, File 11/21/01, 12/13/01 + 2/24/03 Paper No(s) _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☒ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

Office Action Summary

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The amendment of 5/27/03 submitted drawings containing new Figures 6A-6D and 7A-7D to replace Figures 6 and 7, submitted a substitute specification, canceled claims 15-31, and added new claims 46-65.

The substitute specification has been entered.

A form PTO-948 from the draftsman is attached in response to the new figures submitted. Page 11 of the specification describes Figures 4A and 4B (paragraphs 0038 and 0039). However, the drawings contain only a Figure 4. When new formal drawings are filed they should contain Figures 4A and 4B to replace Figure 4. Additionally, when submitting new formal drawings a complete set of drawings should be filed rather than only figures to be replaced.

On form PTO-1449 of 2/24/2003, the Marinaccio et al patent has been lined through since it is also listed as the first document on form 1449 of 12/13/01. The provisional applications listed on the form 1449 of 12/13/01 have been considered but have been lined through since they are listed on the first page of the present specification as related applications.

Claims 1-14 and 32-45 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made without traverse in Paper No. 11 (filed 11/4/02).

Claims examined on the merits are 46-65.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

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Claim Objections

Claim 63 is objected to under 37 CFR 1.75 as being a substantial duplicate of claims 59. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Claim Rejections - 35 USC § 112

Claims 46-65 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In the last line of claim 46, -- support -- should be inserted after "membrane" to be clear and consistent with the recital of "membrane support" in other parts of the claim.

In line 3 of claims 47-50, 64 and 65 -- treatment with -- should be inserted at the beginning of the line since the silanes recited in the claims are not treatments but are materials used in a treatment step in a process. This is consistent with reciting "followed by treatment with" in claims 47-50. Additionally, with this change, "a" at the beginning of line 3 in claim 47 should be deleted.

In line 2 of claim 51, "is" should be deleted and replaced with -- comprises a material -- since the materials recited in the following Markush group are used to form the substrate rather than be the substrate. Additionally, "comprising" in the line should be replaced

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with -- consisting of -- for a proper Markush group that must consist of elements from which one is selected.

In line 2 of claim 55, "is" should be deleted and replaced with -- comprises a polymer -- since the polymers recited in the following Markush group are used to form the membrane rather than be the substrate.

In line 2 of claim 62, "substantially wholly" is uncertain as to meaning and scope. Such a limitation is relative and subjective. Moreover, this limitation is inconsistent with reciting "partially/completely" in line 5 of claim 46. It is suggested that either "partially" or "completely" be recited.

In line 7 of claim 64, 'A' is confusing since the formula in line 4 contains A and not 'A'. Furthermore, there is not clear antecedent basis for "the 'A' group". It is suggested that "wherein the 'A' group" be replaced with -- and A --.

The claims are free of the prior art.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened

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statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David M. Naff whose telephone number is (703) 308-0520. The examiner can normally be reached on Monday-Friday from about 9:30 AM to about 6:00 PM.


If attempts to reach the examiner by telephone are unsuccessful, a message can be left on voice mail.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mike Wityshyn, can be reached at telephone number (703) 308-4743.

The fax phone number is (703) 872-9306 before final rejection or (703) 872-9307 after final rejection.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0196.

DMN
8/8/03


DAVID M. NAFF
PRIMARY EXAMINER
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